



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30.11.1999

COM(1999) 641 final

1998/0350 (COD)

Amended proposal for a

**EUROPEAN PARLIAMENT AND COUNCIL DECISION**

**SETTING UP A COMMUNITY FRAMEWORK FOR COOPERATION IN  
THE FIELD OF ACCIDENTAL MARINE POLLUTION**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

1. A number of activities have been developed since 1978 in the field of accidental marine pollution, based on a Council resolution (adopted on 26 June 1978) establishing a Community Action Programme.

These activities consist mainly of common training, exchange of experts, exercises, pilot projects, a task force with designated experts from the Member States and the setting-up of the Community Information System.

The objectives of Community co-operation in this field is to support and supplement Member States' efforts at national, regional and local levels in order to make them more effective and to create the best conditions for an efficient co-operation.

On 16 December 1998 the Commission submitted the proposal for a Council Decision setting up a Community framework for co-operation in the field of accidental marine pollution (COM(98)769 –1998/0350/COD). This proposal has the objective of bringing together and consolidating the different actions carried out in this field during the last 20 years under a single solid legal basis, and to extend it to operational spills. It includes a continued Community action programme starting from 1 January 2000.

2. The Committee of the Regions has decided not to deliver an opinion.
3. The Economic and Social Committee adopted its opinion on 29 April 1999. It is broadly supportive of the Commission's proposal.
4. On 16th September 1999, the European Parliament adopted a total of 29 amendments at its first reading.

The Commission accepted 12 amendments (2, 4, 14, 16, 19, 20, 21, 25, 26, 27, 28 and 29) in their entirety, 3 (5, 15, and 24) in part, and 5 (3, 6, 8, 9, 13) as well as part of 15, in principle (subject to redrafting). These amendments clarify and improve the text of the proposal. Many of them reinforce the importance of co-operation against operational spills (2, 3, 13, 24, 26, 27, and 29). Others introduce important concern such as the releases from dumped munitions (4, 5, 14, 16 and 24), or call for a stronger implication of the public (20 and 24) or other relevant bodies (19, 21 and 25).

Amendments 6, 8, 9 and 13 concern the need to take due account of international conventions for the protection of some specific regional seas. It is proposed to regroup them under one single recital covering all the relevant conventions and/or agreements.

The remaining 9 amendments (No 1, 7, 10, 11, 12, 17, 18, 22 and 23) cause difficulties for the following reasons:

Amendment 1 and partly amendments 5, 15 and 24 introduce a specific reference to pollution caused by radioactive substances. However,

radioactive substances are already implicitly covered in the proposal. Moreover, existing international conventions for the protection of the Mediterranean Sea, the Baltic Sea and the North Sea, to which the Community is contracting party, have all adopted the same approach, namely not to mention any specific substances. Finally, radioactive substances are explicitly included in the IMDG (International Maritime Dangerous Goods) Code recalled in amendment No 5. In the light of the above, the introduction of a specific mention to radioactive substances does not bring any added value.

Amendment No 7 introduces a reference to the Persistent Organic Pollutants protocol on hormone-mimicking substances signed in June 1998 by the UN. Such a reference is not relevant considering the scope of this protocol, which addresses chronic air pollution.

Amendments No 10, 11, 12, 17, 18 and the first part of amendment 22 seek to improve the co-operation with countries participating in the PHARE, TACIS and MEDA programmes. Such an extension would introduce too many difficulties in terms of management, given the quite different decision-making procedures applicable for the implementation of said initiatives (PHARE, TACIS and MEDA) on the one hand, and the proposed Community framework on the other. The objective of the action programme is to consolidate and improve the co-operation in the field of accidental marine pollution within the Union. These proposals would have a strong impact on the human resources needed for carrying out such actions. Besides, a certain degree of co-ordination with the countries concerned is already assured under the existing international conventions for the protection of the Mediterranean or the Baltic Sea.

The last part of amendment No 22 proposes that the committee set up under the proposed decision shall meet in public and publish agendas and other documentation related to it. Such a proposal causes difficulties, as it is not in line with the recent decision on comitology (Council Decision 99/468/EC).

Amendment No 23 prejudices the decision that should be taken on the basis of the evaluation report referred to in the same article (number 5) and impinges on the Commission's right of initiative.

Amended proposal for a

**EUROPEAN PARLIAMENT AND COUNCIL DECISION**

**SETTING UP A COMMUNITY FRAMEWORK FOR COOPERATION IN  
THE FIELD OF ACCIDENTAL MARINE POLLUTION**

**THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN  
UNION,**

Having regard to the Treaty establishing the European Community, and in particular  
Article ~~130s~~ **175** (1) thereof,

Having regard to the proposal from the Commission,<sup>1</sup>

Having regard to the opinion of the European Parliament,<sup>2</sup>

Having regard to the opinion of the Economic and Social Committee,<sup>3</sup>

Having regard to the opinion of the Committee of the Regions,<sup>4</sup>

**Acting in accordance with the procedure laid down in Article 251 of the Treaty,**

- (1) Whereas the actions taken by the Community in this field since 1978 have made it possible progressively to develop co-operation between the Member States within a Community Action Programme; whereas the resolution and decisions adopted since 1978<sup>5</sup> constitute the basis for this co-operation;
- (2) Whereas the Community Information System has served the purpose of making available to the competent authorities in the Member States the data required for the control and reduction of pollution caused by the spillage of hydrocarbons and other harmful substances at sea in large quantities; whereas the Information System will be simplified by the use of a modern automatic data processing system; whereas the need for rapid and efficient exchange of information requires an appropriate linguistic regime;

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OJ C 162, 8.7.1978, p. 1; OJ L 355, 10.12.1981, p. 52; OJ L 77, 22.3.1986, p. 33;  
OJ L 158, 25.6.1988, p. 32.

- (3) Whereas the Community Task Force and other actions within the Community Action Programme have provided practical assistance to operational authorities during marine pollution emergencies and promoted co-operation and preparedness for efficient response to accidents;
- (4) Whereas the Community programme of policy and action in relation to the environment and sustainable development<sup>6</sup> presented by the Commission foresees that the Community's activities will be stepped up in particular in the field of environmental emergencies which includes accidental marine pollution **and operational spills**;
- (5) Whereas the proposal for a directive on port reception facilities for ship-generated waste and cargo residues will play, once it is adopted, a major role in the context of operational spills.**
- (6) Whereas the Community co-operation in the field of accidental marine pollution, by taking action against the risks, helps to achieve the objectives of the Treaty by promoting solidarity between Member States and contributing, pursuant to Article ~~130~~ **174** of the Treaty, to preserving and protecting the environment, including human health;
- (7) Whereas 'accidental marine pollution' should be defined to include, but not be limited to, all releases of harmful substances into the marine environment, whether civilian or military, either directly at or into the sea, or from the shoreline, or river estuaries, or through releases from materials previously dumped at sea;**
- (8) Whereas 'harmful substances' should be defined to include but not be limited to all materials covered by the IMDG (International Maritime Dangerous Goods) code, and releases from dumped munitions;**
- (9) Whereas particular attention should be devoted to the relevant conventions and/or agreements covering European seas;**
- (10) Whereas the establishment of a Community framework for co-operation providing support measures will help to develop co-operation in the field of accidental marine pollution even more efficiently; whereas such a framework for co-operation should be based to a large extent on experience gained since 1978 in this field;
- (11) Whereas a Community framework for co-operation will also increase transparency as well as consolidate and strengthen the different actions in continued pursuit of the objectives of the Treaty;
- (12) Whereas action to provide information and prepare those responsible for and involved in dealing with accidental marine pollution in the Member States is important and increases the degree of preparedness for accidents and also contributes to lessening the risks;

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<sup>6</sup> OJ C 138, 17.5.1993, p. 5.

- (13) Whereas it is also important to undertake Community action to improve techniques and methods of response and rehabilitation after emergencies;
- (14) Whereas the provision of operational support in emergency situations to Member States and facilitating the dissemination of experience from such situations among Member States has proved to be of significant value;
- (15) Whereas an advisory committee on accidental marine pollution will assist the Commission in managing the framework for co-operation; whereas the Commission may also refer other matters relating to accidental marine pollution to this committee;
- (16) Whereas the provisions of this Decision take over, in particular, the action programme set up through the Council Resolution of 26 June 1978 and the Community Information System established through Council Decision of 6 March 1986; whereas that Council Decision should therefore be repealed from the date on which this Decision enters into force;

HAVE ADOPTED THIS DECISION:

*Article 1*

1. A Community framework for co-operation in the field of accidental marine pollution (hereinafter called "the framework for co-operation") is hereby established for the period 1 January 2000 to 31 December 2004.
2. The framework for co-operation is intended to support and supplement Member States' efforts at national, regional and local level for the protection of the marine environment, human health, and coastlines against the risks for accidental pollution at sea and operational spills, **including releases from dumped munitions.**  
  
**'Accidental marine pollution' should be defined to include, but not be limited to, all releases of harmful substances into the marine environment, whether civilian or military, either directly at or into the sea, or from the shoreline, or river estuaries, or through releases from materials previously dumped at sea.**
3. The aim of the framework for co-operation is to improve capabilities of the Member States for response in case of incidents involving spills or imminent threats of spills of oil or other harmful substances at sea and also to contribute to the prevention of the risks. The framework for co-operation is further intended to create the conditions for and facilitate efficient mutual assistance and co-operation between Member States in this field.

**The framework for co-operation should also facilitate co-operation between Member States to ensure that financial damage can be claimed in accordance with the polluter-pays-principle.**

4. Within this framework for co-operation, a Community Information System with the purpose of exchanging data for the preparedness for and response to accidental marine pollution, including operational spills **and munitions dump zones**, is established. The system will consist of at least the components set out in Annex I.

#### Article 2

1. The Commission shall implement the actions under the framework for co-operation.
2. A three-year rolling plan to implement the actions under the framework for co-operation, to be reviewed annually, shall be adopted, in accordance with the procedure laid down in Article 4 and on the basis *inter alia* of the information supplied by Member States to the Commission. The Commission may, where necessary, arrange additional actions to those under the framework for co-operation. Such additional actions shall be assessed in the light of the priorities set and the financial resources available.
3. Actions under the framework for co-operation and financial arrangements for Community contribution are set out in Annex II.

#### Article 3

1. The rolling plan to implement the actions under the framework for co-operation shall contain the individual actions to be undertaken.
2. Individual actions shall be selected primarily on the basis of the following criteria:
  - (a) contribution to providing information and preparing those responsible for and involved in dealing with accidental marine pollution and operational spills, in the Member States, in order to increase the degree of preparedness and contribute to preventing the risks;
  - (b) contribution to improving techniques and methods of response and rehabilitation after emergencies, **including exchange of information between port authorities**;
  - (c) contribution to providing operational support, by mobilising experts mainly belonging to the Community Task Force, in emergency situations to Member States and to disseminating experience from such situations among Member States;

**(ca) contribution to providing better public information to help clarify risks and relaying accident information;**

**(cb) contribution to strengthening the integration of risk and response with other local agencies including habitat protection bodies.**

3. Each individual action shall be implemented in close co-operation with the competent authorities at national, regional and local levels in the Member States.

#### *Article 4*

1. For the implementation of the actions under the framework for co-operation, the Commission shall be assisted by an advisory committee composed of representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the individual actions to be undertaken. The committee shall deliver its opinion on the draft, within a time limit, which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee and shall inform the committee of the manner in which its opinion has been taken into account.

2. The Commission may also refer other matters relating to accidental marine pollution to the advisory committee.

#### *Article 5*

The Commission shall evaluate the implementation of the framework for co-operation at mid term and before its end, and report by 30 September 2002 and 31 March 2004 to the Council and the European Parliament.

#### *Article 6*

The Council Decision of 6 March 1986 establishing a Community Information System for the control and reduction of pollution caused by the spillage of hydrocarbons and other harmful substances at sea, as last amended, shall be repealed on the entry into force of this Decision.

#### *Article 7*

This Decision shall apply with effect from 1 January 2000.



*Article 8*

This Decision is addressed to the Member States.

Done at Brussels,

**For the European Parliament**  
**The President**

*For the Council*  
*The President*

## ANNEX I

### **Components of the Community Information System**

The Community Information System will use a modern automatic data processing system. On the Internet site, there will be general background information at Community level on a Community Home Page and, on National Home Pages, information related to the national intervention resources available.

Separately, a printed part of the system will be maintained in the form of a Community operational loose-leaf booklet with information on emergency management in each Member State.

1. Each Member State, within six months from the date the Decision enters into force, shall:
  - a) appoint the authority or authorities responsible of the management of the national part of the system, and inform the Commission thereof,
  - b) open a web site to be connected with the whole system through the Community general access page of the system.
2. The Commission will open a web site for the purpose of a general access page of the system and a Community page.
3. Each Member State shall fill, in its National Home Page and within six months from the date the Decision enters into force, at least, the following information:
  - a) a concise view of national structures and of the links between national authorities in the field of accidental marine pollution **and operational spills areas**,
  - b) the inventory of main means for emergency response and clean-up from public and private sectors. This inventory will contain data on:
    - number and qualification of the specialist staff,
    - mechanical resources for recovering hydrocarbons discharged at sea and preventing or combating **sea or coastal pollution from oil spills and other harmful substances**, as well as on the specialist staff that will utilise these resources,
    - chemical and biological resources for combating pollution at sea and cleaning up coasts, **rehabilitation expertise**, as well as on the specialist staff that utilise these resources,
    - strike teams,
    - ships and aircraft equipped for combating pollution,
    - mobile resources for temporary storage of recovered hydrocarbons and other harmful substances,
    - systems for lightening oil-tankers,
    - **an emergency number for public use**,

**ba) list of munitions dump sites,**

- c) the location of stockpiles or equipment,
  - d) the conditions for offering assistance to other Member States.
4. Each Member State shall up-date its National Home Page, specified in paragraph 3, as soon as changes have occurred or at least each year in January.
  5. Each Member State shall provide the Commission with its information on operational emergency management to be included in the Community operational loose-leaf booklet, including operational procedures for mobilisation and operational contact points with their references, within 6 months from the date the Decision enters into force.
  6. Each Member State shall notify to the Commission at the earliest opportunity any change related to the information contained in the loose-leaf booklet.
  7. The Commission shall make available to each Member States a copy of the loose-leaf booklet and shall provide any updating to the Member States.

## ANNEX II

### Financial arrangements for the Community contribution

ACTION	FINANCING ARRANGEMENTS
<p><b>A. <u>Action in training and information</u></b></p> <p>1. <u>Courses and workshops</u> <sup>(1)</sup></p> <p>Organisation of courses and workshops for the national, regional and local officials in Member States and others involved to ensure that the competent services respond rapidly and efficiently.</p> <p>2. <u>Exchange of experts</u></p> <p>Organisation of the secondment of experts to another Member State in order to allow the experts to gain experience or appraise different techniques used or to study the approaches taken within other emergency services or other relevant bodies <u>such as non-governmental organisations with specialist expertise in accidental marine pollution.</u></p> <p>Organisation of exchanges of Member States' experts, specialists and technicians enabling them to present or follow short training courses or modules in another Member State.</p> <p>3. <u>Exercises</u></p> <p>The exercises are intended to compare methods, to stimulate co-operation between Member States and to back up progress in and to co-ordinate the national emergency services.</p>	<p>Maximum Community financial contribution: 75% of the total cost of the action with a ceiling of ECU 75.000 per action.</p> <p>Maximum Community financial contribution: 75% of the experts' travel and subsistence expenses and 100% of the costs of co-ordinating the system.</p> <p>Maximum Community financial contribution: 50% of the costs of participation of observers from other Member States and for organising associated workshops, preparing the exercise, producing a final report, etc.</p>

#### 4. Community Information System

Development and maintenance of a modern computerised information system to help the national authorities dealing with accidental marine, **and operational spills** pollution by providing the information needed for emergency management.

100% financing of the Commission part of the system.

#### **B. Action for improving techniques and methods of response and rehabilitation (pilot projects).<sup>(1)</sup>**

Projects designed to increase the Member States' capacity for response and rehabilitation. These projects are aimed mainly at improving means, techniques and procedures. Their scope shall interest all or several Member States, and could include projects for the implementation of new technologies related to accidental marine pollution, **and operational spills**. Projects involving two or more Member States will be encouraged.

Maximum Community financial contribution 50% of the total cost of each project with a ceiling of 150.000 ECU.

#### **C. Support and Information actions**

##### 1. Environment impact

Actions to support surveys of the environmental effects after an incident **evaluate the preventive and remedial measures taken** and to largely disseminate their results and the experience acquired to the other Member States.

Maximum Community financial contribution: 50% of the total cost of each action.

##### 2. Conferences and events<sup>(1)</sup>

Conferences and other marine pollution events open to a large audience, in particular when they involve several Member States.

Maximum Community financial contribution: 30% of the total cost of the action with a ceiling of ECU 50.000.

<p>3. <u>Other support actions</u><sup>(1)</sup></p> <p>Actions for defining the state of the art, for the development of principles and guidance for important aspects of the accidental marine pollution and operational spills and for the evaluations of the framework for co-operation.</p> <p>4. <u>Information</u></p> <p>Publications, exhibition material and other information to the public on the Community co-operation in the field of accidental marine pollution, <u>and operational spills</u>.</p> <p><b>D. <u>Mobilization of expertise</u></b></p> <p>Action for mobilisation of experts belonging to the Community Task Force to intervene in the event of an emergency situation to reinforce the system set up by the authorities of a Member State or a third country facing the emergency and for provision of an expert on scene to co-ordinate observers from other Member States.</p>	<p>100% financing.</p> <p>100% financing.</p> <p>Community financial contribution: 100% of the cost for the experts' missions.</p>
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(1) The only eligible actions are those interesting all Member States or a significant number of them.

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# DOCUMENTS

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